

is adequate so that one of ordinary skill in the art would be able to make and use the invention presently claimed. The inspection device described and claimed by applicant is a very complicated device. It required from Applicant a specification that was 36 pages long (not including claims) along with 26 sheets of drawings to describe Applicant's invention. In contrast, Examiner seems to suggest that all that is necessary to disclose the present invention is a few sentences and no drawings. Applicant strongly disagrees. Instead, DeTitta under the heading "Plate Imaging System", in a very cursory fashion and in just a few sentences describes some of the features of a machine that is supposedly in existence at the Hauptman-Woodward Institute in Buffalo, N.Y. DeTitta does not describe with sufficient detail how to make this machine or how to use it to such a degree so that it can be a proper reference. Also, DeTitta does not provide any proof the machine referred to included the novel features of the claimed invention.

#### Claim Rejections – 35 USC 103

Examiner has rejected Claims 3, 15 and 32 as being unpatentable over DeTitta as applied to Claims 1, 13 and 30 and further in view of Jurisica. In response Applicant has submitted a Declaration under Rule 131 (Enclosure A) signed by coinventor Brian L. Ganz and a Declaration under Rule 131 (Enclosure B) signed by coinventor John A. Adams to antedate the Jurisica reference by establishing facts showing prior invention of the subject matter covered by Claims 3, 15 and 32.

Jurisica was published in the *IBM Systems Journal Vol. 40, No. 2*. The *IBM Systems Journal* is an IBM owned publication that is published quarterly. The Jurisica article was in the No. 2 version of Volume 40. The No. 2 version of Volume 40 has a version date of July 9, 2001. (Enclosure C).

Applicant respectfully submits that Applicant's priority date can be traced back long before the date of July 9, 2001. By referring to Enclosure A, it can be seen that automatic classification was conceived of on a date prior to October 23, 2000. Applicant then diligently began reducing to practice his invention on October 26, 2000. On March 26, 2001, a subroutine called "findcrystal" was written and integrated into the invention. The

subroutine "findcrystal" allowed for automatic classification of microcrystals. A first version of the machine including the subroutine "findcrystal" was shipped to customer Structural Genomix, Inc on April 10, 2001 (3 months prior to the Version date of July 9, 2001). Applicant continued working on another version of the machine to be shipped to Structural Genomix. The second version was similar to the first with the exception that some improvements were made, including improvements to "findcrystal". The second version was shipped August 14, 2001.

#### Improved Automatic Classification

The versions of the invention shipped to Structural Genomix both contained the ability to automatically classify microscopic crystals by reporting if a microscopic crystal was present or if no crystal was present. It was the goal of RoboDesign to further perfect a system that would classify drops into multiple categories (see Enclosure 3 and paragraph 8 of Brian L. Ganz's declaration). To this end, after shipping the first machine to Structural Genomix, coinventor John Adams diligently dedicated his efforts to perfecting an automatic classification that would classify the microscopic crystals into 9 categories. Enclosure B is a Rule 131 declaration signed by John Adams attesting to his due diligence. On September 14, 2001, RoboDesign submitted a quote to Structural Genomix (Enclosure 11) for the cost of coding the improved classification algorithms to run on the RoboVision machines that Structural Genomix had purchased in April and August. The improved classification algorithms would be able to automatically classify a plurality of microscopic crystals into 9 possible categories. The above identified-patent application was then filed on October 18, 2001.

In summary, Applicant respectfully submits that Applicant has priority over the Jurisica publication. The priority date of Jurisica is its version date of July 9, 2001. In contrast, the priority date of Applicant's invention can be traced back to the day of its conception, October 23, 2000.

Therefore, because neither DeTitta nor Jurisica are proper references against the present invention, Applicant respectfully submits that all Claims should be allowable since